

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

FILED BY 8 D.C.  
05 APR 12 AM 9:01  
ROBERT R. DI TROLIO  
CLERK OF U.S. DIST. CT  
WD OF TN-JACKSON

MARCUS WADE,

Petitioner,

VS.

GLEN TURNER,

Respondent.

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No. 05-1100-T/An

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ORDER DENYING LEAVE TO PROCEED *IN FORMA PAUPERIS*  
AND  
ORDER DIRECTING PETITIONER TO PAY THE HABEAS FILING FEE

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Petitioner Marcus Wade, Tennessee Department of Correction prisoner number 292802, an inmate at the Hardeman County Correctional Facility ("HCCF") in Whiteville, Tennessee, filed a series of documents on April 1, 2005 that the Court construes as a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254,<sup>1</sup> along with an application seeking leave to proceed *in forma pauperis*. The Clerk shall record the respondent as HCCF warden Glen Turner.<sup>2</sup>

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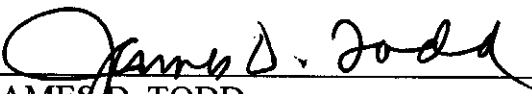
<sup>1</sup> Although the petitioner also purports to invoke 28 U.S.C. § 2255, that provision is inapplicable because Wade is a state prisoner serving a state sentence. The Clerk is directed to correct the docket to reflect that this is a § 2254 petition.

<sup>2</sup> Although the petition lists the State of Tennessee as an additional respondent, the proper respondent to a habeas petition is the petitioner's custodian. See Rumsfeld v. Padilla, 124 S. Ct. 2711, 2718 (2004). The Clerk is directed to remove the State of Tennessee as a party to this action.

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Based on the information contained in the petitioner's affidavit, and in his inmate trust fund account statement, the motion to proceed *in forma pauperis* is DENIED. Petitioner is ORDERED to remit the \$5.00 habeas filing fee within thirty days after the entry of this order. Failure to timely comply with any requirement of this order will result in dismissal of the petition without further notice for failure to prosecute.

IT IS SO ORDERED this 11<sup>th</sup> day of April, 2005.

  
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JAMES D. TODD  
UNITED STATES DISTRICT JUDGE



## Notice of Distribution

This notice confirms a copy of the document docketed as number 7 in case 1:05-CV-01100 was distributed by fax, mail, or direct printing on April 18, 2005 to the parties listed.

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Marcus Wade  
292802  
P.O. Box 549  
Whiteville, TN 38075

Honorable James Todd  
US DISTRICT COURT